

Mr. DURBIN. Mr. President, it is my understanding that 30 minutes is allotted to the Democratic side.

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. I will indicate that if Senator SPECTER from the Judiciary Committee comes to the floor to lay down the bankruptcy bill, I will ask unanimous consent that he be given an opportunity and that our time be preserved in morning business, even though he is given that chance to lay down the bill.

Before my colleague from Kansas leaves—I know he is off to a committee meeting—I thank the Senator for his statement. It is critically important that all of us on both sides of the aisle, Democrat and Republican, make it clear every single day about this senseless killing that is going on in the Darfur region of Sudan.

We had the gentleman who is the subject of "Hotel Rwanda" in Chicago a week ago, Paul Rusesabagina. He saved 1,200 people in Rwanda from genocide. He did not come to brag; he came to beg that we do something about Sudan. He touched my heart. I said I will come back and do everything I can, and every day I will get up and speak, if I have a chance, to remind people that we have to do something as a nation.

I thank the Senator from Kansas for his statement. It was very eloquent. Although I may not agree on every single thing he said, I certainly agree this is a matter of great urgency and immediacy. I thank him for his leadership.

BANKRUPTCY REFORM

Mr. DURBIN. Mr. President, when Senator SPECTER comes to the floor, soon he will lay down this bill, S. 256. It is about 500 pages. It is a recurring theme on the floor of the Senate. In the 9 years I have served in the Senate, I think a bankruptcy bill has been on the floor almost every year. I know this because when I first came to the Senate, to the Senate Judiciary Committee, I was the ranking Democrat on the subcommittee that wrote the bill. Senator CHUCK GRASSLEY and I came together and crafted what I thought to be a very fair and balanced bill. We were approached by people who said there are a lot of abuses in bankruptcy. There are people filing for bankruptcy who can really pay their debts. So let's try to tighten the process. Those who were irresponsible in their conduct, those who incurred debt and turned to the bankruptcy court and tried to be absolved from their financial responsibilities should be held accountable.

Senator GRASSLEY and I agreed on that. We crafted a bill that was very balanced. The bill passed the Senate 97 to 1. Sadly, it did not go forward. The House had a different idea. After the House got its hands on it, it did not

look anything like the bill we originally introduced. The bill kept disappearing, reappearing, disappearing, and reappearing, and here it is again, S. 256. Unfortunately, this version of S. 256 is a far cry from the original balanced approach. This bill is not balanced.

Who wants this bill? That is the most important question to ask about any legislation that comes to the floor. The people who want this bill are the credit card companies and major financial institutions.

Why do they want it? Here is the circumstance. Imagine, if you will, that you and your family are so deeply in debt that there is no way out. It could be because of medical bills you did not anticipate. It might be because somebody lost a job and could not find one. It could be because of a divorce or some other extraordinary situation. Maybe it is a personally owned family business that just fails.

Then you say: What am I going to do? I never dreamed I would reach this point. The law says there is a way out. It is bankruptcy. The law puts you through some pretty tough requirements if you want to file for bankruptcy. You have to go into court and really bear your soul, tell that judge and all of your creditors what you own, and they come in and say: Here is what you owe. Now how much can we collect from what you own?

It is a tough process. For many people it is a sad and embarrassing process. What we find is that many people have no choice; they have reached a point where they cannot pay the debt. There is no way they will be able to pay it off. They are being hammered by bill collectors calling their homes at all hours of the night and day, harassing their children, harassing them, trying to get some money paid on their debt, and they finally say: I cannot take it anymore. I am going to file for bankruptcy. It happens. It happens in families that never dreamed it would happen to them because of circumstances beyond their control.

What is this bankruptcy reform bill all about? The purpose of this bill is to make certain for many people that if you go into court to file for bankruptcy, the slate will not be wiped clean. You will not walk out of that bankruptcy court at the end of the day with no debt. You will end up in a circumstance where you will carry many of these debts to the grave. What kind of debts are we talking about? Credit card debt, other debts you have incurred that will stay with you for a lifetime. No matter what you do under the law, you cannot escape them.

Naturally, the credit card industry and big banks want this bill. They believe if they can hang on forever and will not be discharged in bankruptcy, they will get something back in the process. They believe this bill will dis-

courage people from filing bankruptcy, and people will just labor under this debt they never paid off longer and longer. That is why we are considering this bill. This bill is all about creditors ending up with more money at the end of a bankruptcy.

It is interesting. We had one hearing on this 500-page bill. It has been 4 years since we had a hearing. We had one hearing. The hearing lasted 2 hours and 15 minutes on a 500-page bill. One would think the lead witness at that hearing would be someone from the credit card industry. They want it. They are pushing this bill. Or some banking institution. But when you looked at this array of people at the table before the Senate Judiciary Committee, they were nowhere to be found. They would not come in and sign a witness slip and testify in favor of the bill they created. I am going to explain why they did not. But if you looked in the back of the hearing room beyond the glare of the lights and the cameras, there they sat, row after row of lobbyists for the credit card companies and banks. They may have created this little child, sent it to the floor of the Senate, but they did not want to be associated with it when it came to answering questions. Boy, that tells me a lot. If this is such an innocent bill and such a good bill, why is it that the major credit card companies would not come and testify and explain why they wanted this bill? I think it speaks volumes.

They know what is going on. This is a bill which is going to hurt a lot of ordinary people, folks who, through no fault of their own, end up head over heels in debt and are desperate to start over. Credit card companies and banks want to make it tougher for them, and they will during the course of offering this bill.

This bill will radically alter America's bankruptcy laws, not for the better. If it becomes law, millions of hard-working Americans who have been devastated financially, through no fault of their own, are going to end up in a new sort of debtor's prison from which they may never escape.

We are not talking about people who go to the casino and get wild about their gambling and run their credit card or ATM card to the limit. We are not talking about people who go on a shopping spree for luxury cars. We are talking about ordinary people facing the ordinary demands of life who are swept away by debt they never anticipated. Sadly, this bill makes no distinction between the irresponsible who are in debt and those who have done everything humanly possible and end up in debt.

We had one hearing on this bill on February 10, 2 hours and 15 minutes. As I looked around that room, I thought to myself: There is a reason why the credit card companies will not come

forward and speak about this. The reasons are fairly obvious. The bill is not a fair bill.

I would have asked the credit card industry demanding this bill, how are you doing, how is your industry doing, making a profit? If they would have answered me honestly, here is what they would have said: In the year 2003, credit card companies in America enjoyed a \$30 billion profit, their highest profit in 15 years. It makes one wonder, does it not, why we are rushing to pass a bill so that people who end up head over heels in credit card debt cannot get out from under it, even in the bankruptcy court. These companies are not hurting. Why are we in such a hurry to give them a pass with this new expanded power to squeeze a few last dollars out of families who have been devastated financially?

You know something else, the majority of people who go to bankruptcy court go there because of medical bills. That is right, medical bills. I will talk about that in a moment.

Supporters of this bill say you are either with them or with the bad guys, the chiselers, the cheaters, the grafters, the drifters, the people they say are trying to game the system of bankruptcy by running up huge credit card debts with no intention of ever repaying.

The truth is, real life is not that black and white. There are people who abuse the bankruptcy laws. I will tell you about a couple of them in a minute. They try to skip out of debts they can afford to pay and, from my point of view, the law ought to hold them responsible, no ifs, ands, or butts.

I support a balanced bankruptcy bill, such as the one Senator GRASSLEY and I put together several years ago. This bill is not balanced. In this bill, in 500 pages, there is not one line, not one word curbing the abuse and deceptive practices of credit card companies and other lenders.

The supporters of this bill condemn people who file for bankruptcy and say they are morally deficient; they do not understand the moral responsibility of paying their debts. What about the moral responsibility of the credit card companies? They flood our mailboxes in America every year with 5 billion preapproved credit card offers, an average of \$350,000 in preapproved credit for every family in America. You know it. Go home tonight and look in your mailbox. More likely than not, there will be another solicitation for another credit card.

What about the credit card companies that continue to make high-interest loans to families even when they are obviously teetering on the edge of financial collapse? A couple weeks ago, a member of my staff told me he had taken his family on a flight and signed his son up for frequent flier miles, a pretty smart thing to do. Within a few

weeks, his son received a solicitation for a credit card. I told him he ought to be honored. It meant that Tyler, at the age of 3½ years, was obviously on the flight path for success. The credit card industry could not wait to give him a credit card at age 3½. And we joked about it, until the weekend when I told the same story back in Illinois and a fellow said: I have him beat. My 9-month-old daughter was solicited for a credit card.

Is that responsible? Is that responsible by the credit card industry? Is that moral, now that we are talking about moral values? Certainly no 9-month-old or 3½-year-old is going to end up with a credit card. What about 16-year-olds, 17-year-olds, 18-year-olds, college students? That is another issue altogether. Many of them, unprepared to deal with debt, are trying to deal with credit cards.

Supporters of this bill rail against irresponsible consumers. What about irresponsible lenders? In the entire bill, there is nothing that tells the credit card companies, if you are really worried about your losses, exercise better judgment about to whom you lend money.

If I went home tonight to Illinois and told someone Congress is working on a bankruptcy reform bill, they would say: Thank goodness; it is long overdue. It is time we went after those Enron cheaters. It is natural they would say that. In the last few years, America has seen this parade of corporate bankruptcy—Enron, WorldCom, Adelphia, United Airlines, USAir, TWA, LTV Steel, Kmart, Polaroid, Global Crossing, KB Toys—the list goes on and on. Many of the companies that have gone into bankruptcy are associated with scandal. In some cases, the CEOs, many of whom are on trial, and their top officers were paid multimillion-dollar bonuses even as the companies were being run into the ground. Then the companies filed for chapter 11 bankruptcy protection and asked a judge to throw out worker contracts and cancel pension plans and health benefits, leaving thousands of families devastated.

Wouldn't one think in a bankruptcy bill we would go after some of these corporate bankrupt cheaters? Wouldn't one think we would go after these CEOs and officers who got hundreds of millions of dollars from these corporations they never paid back? Wouldn't one think we would hold them accountable because their irresponsible conduct meant the corporation would go bankrupt, could not pay its stockholders, could not pay its employees, could not pay its retirees? Wouldn't that be fair, and wouldn't it be timely? It would. You will not find one word about it in this bill. That is corporations. We are talking about individuals and families. We are going to make it tough on them. There is not a word

here about the corporate crooks who are milking these corporations at the expense of employees and retirees.

Want to talk about moral values for a couple minutes? I think exhibit A is some of these corporations, what their officers have done to poor unsuspecting people who worked a lifetime for that corporation, 25, 30, 35 years, showed up to work every day, punching a clock even when they felt sick, thinking: I am doing the right thing for my family. I am saving money for my future, and thank goodness this corporate pension is going to be there for me. Then they retire, and what happens? After these corporate bums milk the corporations dry, they end up canceling the health care and pension of their employees.

Boy, sounds like the subject of a bill which Congress might one day consider, but, no, it will not be today. We do not talk about those people. We are talking about the woman who went in diagnosed with breast cancer, who did not have health insurance and ended up with tens of thousands of dollars of medical bills and found out she could not pay them and in desperation filed for bankruptcy. We are going after her. She is the one who is the target of this legislation, not the corporate officers. We are not going after the insiders. We are going after the ordinary people.

I will give a couple examples of how people game the bankruptcy system, examples that, frankly, when this bill is finished will not even be addressed. Bowie Kuhn, former baseball commissioner, abused the bankruptcy laws. He took advantage of a Florida law which says one's home is exempt from bankruptcy. In other words, if one files bankruptcy they can keep their home.

What did Mr. Kuhn do? He went to Florida and bought a multimillion dollar home with every penny he owned and then filed bankruptcy. So everything he ever had in life was protected. He knew where to go and what to do and he could qualify for this loan.

Burt Reynolds, the actor I used to laugh at in the movies—here is a good laugh: He did the same thing. He bought himself a ranch to protect his assets and then he filed for bankruptcy.

Does this bill go after those millionaires who use the bankruptcy laws the way I described? Nope. Unfortunately, it does not. We are more interested in that woman diagnosed with breast cancer, with medical bills she cannot pay.

The credit card companies are right on one point; we have seen an alarming increase in consumer debt and consumer bankruptcy since they first started pushing for this bill years ago. But we are not talking about economic conditions that have created the household debt crisis in America, the millions of jobs that have been downsized and outsourced and sent overseas, restructured out of existence, the fact

that real wages are declining for workers across America. People are working harder and falling further behind.

I see my colleague from the Judiciary Committee. If he is here on behalf of Senator SPECTER to lay down the bill, I yield the floor pursuant to my earlier unanimous consent request to allow Senator SESSIONS to lay down the bill and make a statement if he wishes, and then I will reclaim my morning business time, if there is no objection.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

ORDER OF PROCEDURE

Mr. SESSIONS. Mr. President, I ask unanimous consent that 30 minutes of additional morning business time be set aside at 2:15 today and that Senator BYRD be recognized at that time; provided that following the expiration of the Republican morning business time the Senate resume consideration of Calendar 14, S. 256, the bankruptcy bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 256, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 256) to amend title 11 of the United States Code, and for other purposes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the pending committee amendments be agreed to and be considered as original text for the purposes of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I am pleased we are able now to move forward with this bankruptcy bill. We have been at it 8 years. It has passed this Senate 3 different times, one time with over 90 votes, and the last time was 83 to 15. It represents many years of steadfast debate and discussion.

I see my colleague from Illinois, Senator DURBIN, has been very active in all of this debate. As a matter of fact, at one time he was sponsoring the bill. He has continued to offer amendments that he believes improve it. Some have been accepted and made a part of the bill, some have not.

I think his evaluation of the legislation is far too negative in terms of the impact it would have on poor people. I believe it is going to benefit poor people. It is going to benefit families. It is going to benefit mothers with children. Clearly, it will do that and it will crack down on abuses.

Are there additional abuses we would like to deal with, one in particular he just mentioned, the homestead exemption? I would like to have gone further. It is in the constitution of quite a number of States that homesteading is so much and Senators have dug in their heels and said this overrides the Florida constitution, the Kansas constitution, the Texas constitution, or I cannot agree to do that on the floor, I will fight this bill and object to it if anyone tries to do that.

So we made some improvements in the abuses on homestead. I think that was the right direction. I wish we could have gone further. Senator HERB KOHL and I would have offered the amendment that could have changed it even more significantly, but perfect is not always achievable. I wish we could do more, but I think we made some real progress. We delineate those steps that tighten it up and make it much more difficult to abuse the homestead exemption. One has to actually live in a house for 2 years in that State or they cannot take advantage of it. That is a step forward and will stop these people from buying a house on the eve of filing bankruptcy. So there are some good things.

With regard to health care, let us talk frankly about health care. Yes, it is a factor in quite a number of bankruptcies. It is not the No. 1 factor. In my view, over half the bankruptcies are clearly not driven by health care, but a large number of them are impacted by health care bills.

The question is this: Will it change the situation for poor people who have health care bills? Will they not be able to take advantage of bankruptcy and wipe those debts out today, just like they would? Well, if they make below the median income—and we think about 80 percent of the filers in bankruptcy make below median income—the law is not going to change. They will still be able to wipe out any debts they have for medical or other reasons.

Then what about if one has a continuing health care debt, and they make above median income but they have a serious medical cost which is recurring regularly, what can they do about that? They will have a harder time going into chapter 13 and paying back some portion of the debts that they owe, people argue, and they are correct, but under this bill the bankruptcy judge can calculate that extra recurring health care debt as part of the expenses and those people would still be able to file under chapter 7, wiping out all of their debts, if that is

what they chose to do. If they make above the median income and are able to pay off some of their debts to their doctor and their hospital, why shouldn't they? You mean they have no obligation to pay a hospital that may have spent a lot of money helping them get well or a physician who took care of them and provided medical care to them? If they are making \$80,000 a year and in bankruptcy under chapter 13 the judge finds that a person could pay back 25 percent, why should they not pay 25 percent? The judge will not order it unless he believes based on the person's income level they have the ability to repay.

When a person in America undertakes an obligation to pay someone, they ought to pay them, and in any country that is so. We are drifting a bit to suggest there is no real obligation to pay the debts we incur. If we get to that point, then we have eroded some very important fundamental moral principles about commerce in America.

I know Senator DURBIN has an amendment he would like to offer, and I will not delay him from doing that. I have some other things to say in general about the bill, and I can say those later. I believe this is a rational bill. That is why it has such broad support. I believe this bill says plainly and clearly, if one can pay back some of their debts, they ought to do so. There is no reason why somebody making \$100,000 who can pay back 20 percent of the debts he owes to the person who fixed his car or the doctor who helped him get well should not pay that back. Why should they wipe out all of those debts?

For the vast majority of people who file, they will be able to file under chapter 7 and wipe out all of their debts if that is what they choose.

I will say one thing further about chapter 13. That is the category of bankruptcy a person would be put into if they were required to pay some of their debts back. Chapter 13 has been a part of bankruptcy law for quite a long time. In my home State of Alabama, over half the bankruptcies are filed under chapter 13. People want to pay their debts. They are behind in their debts. People are bugging them, the phones are ringing, lawsuits are being filed, and they are overwhelmed. They cannot pay all of their debts at once and they file under the bankruptcy law. They say, I want to pay back a percentage of my debts, Judge, and if you will set out a schedule, if you will get these creditors off my back and have them quit calling me, quit suing me, quit sending me demand letters, you set up the schedule, I will pay this one so much a month and this one so much a month. That is a healthy, good thing. We ought to do more of that.

In some States, under 5 percent of the debtors go into chapter 13. That number ought to come up because a lot